

6

**FILED**

SEP 06 2022

CLERK, U.S. DISTRICT COURT  
BY EASTERN DISTRICT OF CALIFORNIA  
DEPUTY CLERK

Name and Prisoner/Booking Number  
Anthony Turner BJ-9612

Place of Confinement  
Mule Creek State Prison

Mailing Address  
P. O. Box 409089

City, State, Zip Code  
Ione, Ca 95640

(Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

Anthony Denwayne Lee Turner, )  
(Full Name of Plaintiff) Plaintiff, )  
v. )  
(1) Michael Ulbery, )  
(Full Name of Defendant) )  
(2) Ehab Nouged, )  
(3) Bharat Rattan, )  
(4) Deepthi Surineni, )  
(Full Name of Defendant) Defendant(s). )  
 Check if there are additional Defendants and attach page 1-A listing them. )

CASE NO. 2:22-cv-0002 KN

(To be supplied by the Clerk)

CIVIL RIGHTS COMPLAINT  
BY A PRISONER

Original Complaint  
 First Amended Complaint  
 Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

28 U.S.C. § 1343(a); 42 U.S.C. § 1983  
 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).  
 Other: \_\_\_\_\_

2. Institution/city where violation occurred: Ione, California

## B. DEFENDANTS

1. Name of first Defendant: Michael Ulery The first Defendant is employed as:  
Doctor at Mule Creek State Prison  
 (Position and Title) (Institution)

2. Name of second Defendant: Ehab Nouged The second Defendant is employed as:  
Dentist at Mule Creek State Prison  
 (Position and Title) (Institution)

3. Name of third Defendant: Bharat Rattan The third Defendant is employed as:  
Doctor (PcP) at Mule Creek State Prison  
 (Position and Title) (Institution)

4. Name of fourth Defendant: Deepthi Surineni The fourth Defendant is employed as:  
Doctor at Mule Creek State Prison  
 (Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

## C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner?  Yes  No

2. If yes, how many lawsuits have you filed? 2. Describe the previous lawsuits:

a. First prior lawsuit:

- Parties: Turner v. [REDACTED] v. C Chen
- Court and case number: Unknown
- Result: (Was the case dismissed? Was it appealed? Is it still pending?)  
Summary Judgment

b. Second prior lawsuit:

- Parties: Turner v. Napa State Hospital
- Court and case number: Unknown
- Result: (Was the case dismissed? Was it appealed? Is it still pending?)  
Summary Judgment

c. Third prior lawsuit:

- Parties: \_\_\_\_\_ v. \_\_\_\_\_
- Court and case number: \_\_\_\_\_
- Result: (Was the case dismissed? Was it appealed? Is it still pending?)  
 \_\_\_\_\_

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

## D. CAUSE OF ACTION

## CLAIM I

1. State the constitutional or other federal civil right that was violated: Amendment VIII, Amendment XIV, ADA Title III

2. Claim I. Identify the issue involved. Check only one. State additional issues in separate claims.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input checked="" type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____	

3. Supporting Facts. State as briefly as possible the FACTS supporting Claim I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

I filled out a 7362 form to Dr. Michael Ullery on October 12, 2020, explaining that I am allergic to Amlodipine. He proceeded with tapering me off the medication I'm allergic to that discontinued November 2, 2020. Then on April 1 2021 Dr. Bharat Rattan assumed I was not taking my blood pressure medication and even after I explained to her I'm allergic to Amlodipine, she ordered it for me to take away. I explained to the doctor that my right leg is in unbearable pain and that if I take the medicine my leg will swell up. I did not get medication for pain, but I got order a medication I'm allergic to and now it swollen, in unbearable pain and infected with cellulitus. The medication was discontinued May 1, 2021. The prison employees showed when the defendants ignored my request letting them both know I'm allergic to Amlodipine. In Coleman v. Rahrig, 114 F.3d 778 (8th Cir. 1997).

4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

I have permanent pain, a very bad limp, a stiff spot in my leg, scars and half swollen all the time leg and been given a walker chair because I not able to stand for long periods of time.

## 5. Administrative Remedies:

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No
- Did you submit a request for administrative relief on Claim I?  Yes  No
- Did you appeal your request for relief on Claim I to the highest level?  Yes  No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

## CLAIM II

1. State the constitutional or other federal civil right that was violated: Amendment XIII  
Amendment XIV, ADA Title II

2. Claim II. Identify the issue involved. Check only one. State additional issues in separate claims.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input checked="" type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____	

3. Supporting Facts. State as briefly as possible the FACTS supporting Claim II. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

I requested orthopedic shoes upon my arrival to Mule Creek State Prison March 26, 2020. I made many request to Dr. Michael Ullery to be looked at by a podiatrist to cut my toe nails because I'm a diabetic that has bilateral hallux deformity with first toe overlapping second. I was denied services. It then was delayed because of Covid-19.

I kept requesting a need for shoes because my feet hurt to the point without a arch I have leg pain and back pain. I requested it on a 1824 ADA Accommodation form because I was hurting. I was denied and delayed over all this time and then finally on September 9, 2020 I was accommodated when I should have been before making many complaints dating back from march 26, 2020. I did not receive the medical care I needed. In Todaro v. Ward, 565 F.2d 48 (2nd Cir. 1977). This is cruel and unusual punishment and deliberate indifference.

4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

Constant foot pain in my feet, right leg in stiffness that won't go away. I have permanent swelling and a very bad limp with a wheelchair walker. I'm not able to walk far or stand for long periods of time.

5. Administrative Remedies.

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  
 Yes  No
- Did you submit a request for administrative relief on Claim II?  
 Yes  No
- Did you appeal your request for relief on Claim II to the highest level?  
 Yes  No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

## CLAIM III

1. State the constitutional or other federal civil right that was violated: Amendment VIII,  
Amendment XIV, ADA Title III

2. Claim III. Identify the issue involved. Check only one. State additional issues in separate claims.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input checked="" type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____	

3. Supporting Facts. State as briefly as possible the FACTS supporting Claim III. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

Plaintiff, being without teeth request a soft food tray or protein drink to eat because he suffered cuts, sores, throbbing pain during the course of eating regular meals. Mr. Turner, was denied his request's many times by Dr. Michael Utter and Dentist Ehab Nouged. A. Turner, filed 7362 forms from April 29, 2020 and was consistently denied accommodations until July 4, 2021. The states have a constitutional duty to provide necessary medical treatment to their inmates, including psychological or psychiatric care. This delay and not providing services both physicians knew they were acting illegally and that their act was unconstitutional. *Scarlier v. Katz*, 533 U.S. 194 (2001), and *Harlow v. Fitzgerald* 457 U.S. 800 (1982), violating rights; *Prison Legal News v. Lehman*, 397 F.3d 692, 701 (9th Cir. 2005).

4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

Very severe pain when something comes in contact with my gums in my mouth, throbbing pain or sores of numbness or cuts and unable to eat at times

5. Administrative Remedies.

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No
- Did you submit a request for administrative relief on Claim III?  Yes  No
- Did you appeal your request for relief on Claim III to the highest level?  Yes  No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

If you assert more than three Claims, answer the questions listed above for each additional Claim on a separate page.

CLAIM III

1. State the constitutional or other federal civil right that was violated: Amendment VIII  
Amendment XIV, ADA Title III

2. **Claim III.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input checked="" type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input type="checkbox"/> Other: _____	

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

I informed Doctor Deepthi Surineni that I was allergic to Amlodipine and that Bharat Rattan or Michael Ulery tapered me off the medication. Then on April 1, 2021 Dr. Deepthi Surineni assumed I was not taking my medication or blood pressure medication and even after I explained to her that I'm allergic to Amlodipine 3 times she ordered it for me to take away. I explained to the doctor that it was discontinued on November 2, 2020 and at San Quentin. I also told the Doctor Deepthi Surineni that my right leg was swollen and in unbearable pain since and that if I take the Amlodipine my leg will swell up more and I will get cellulitus. My leg is where like swollen and in pain. I only received stockings. The cellulitus was not taken care of or was my legs bandage since March 26, 2020 I just got treatment for my both legs because the cellulitus pain and swelling about 3 months ago February 23, 2022

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

I walk with a walker, my legs are very weak, I can not stand straight my legs hurt all the time as well as my feet I'm scared for life on my legs with big sores, I can't walk or stand for long periods of time.

5. **Administrative Remedies.**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No
- Did you submit a request for administrative relief on Claim III?  Yes  No
- Did you appeal your request for relief on Claim III to the highest level?  Yes  No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

If you assert more than three Claims, answer the questions listed above for each additional Claim on a separate page.

**E. REQUEST FOR RELIEF**

State the relief you are seeking:

Damages or any damages that the  
Court deems just and appropriate

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

<sup>DATE</sup>  
September 1, 2022

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or  
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

**ADDITIONAL PAGES**

All questions must be answered concisely in the proper space on the form. If you need more space you may attach more pages, but you are strongly encouraged to limit your complaint to twenty-five pages. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages. Remember, there is no need to attach exhibits to your complaint.

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

Anthony Dewayne Lee Turner  
Plaintiff,  
v.

Michael Ullery  
Ehab Nouged  
Bharat Rattan  
Despithi Surineni  
Defendants.

✓ First Amended Complaint

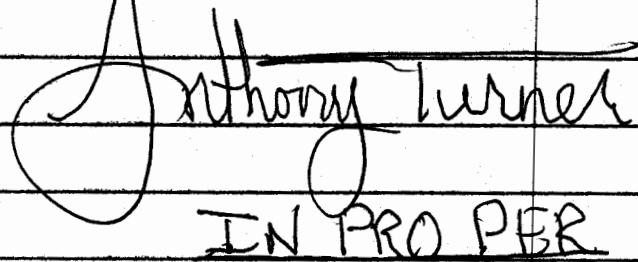
Plaintiff is a state prisoner, proceeding pro se, with his civil rights action seeking relief pursuant to 42 U.S.C. § 1983. Plaintiff is filing a motion for leave to amend and by accompanied by a proposed amended complaint to the Court and defendants in good faith. These proposed amended complaints and motion requesting in good faith from the defendants requesting to add responsible party to be joined with the

Original complaint that was filed January 1, 2022 and re issued as first proposed amended Complaint with fourth defendant Deepthi Surineni added. September 1, 2022.

I, Anthony Turner declares that the above is true and correct under penalty of perjury to the best of knowledge. Executed this 1<sup>st</sup> Day of September, 2022 in Sacramento, California.

Dated: September 1, 2022

Respectfully Submitted,

  
Anthony Turner  
IN PRO PER

(2)

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

Anthony Dewayne Lee Turner

Plaintiff,

v.

MICHAEL ULLERT et al.,

Defendants.

No. 2:22-cv-0002-KJN-f  
MOTION OF  
NOTICE OF

AMENDING AND  
ADDING  
PLEADING OF

DEEPTHI SURINENT

This notice is in good-faith about other amendments in this case. I state that a party may amend its pleading with opposing party's written and the Court leave. The Court should freely give leave to amend when justice so requires. I am asking your party in good faith to allow me to amend my complaint with defendant Mrs. Deepthi Surineni. The doctor and employee of Mule Creek State Prison located

at the same address and place as other defendants Ratton, Ullery and Nouged whom answered the Complaint. This should respond with the Federal Rules of Civil Procedure Rule 15 (a)(B) if the pleading is required or is one to which a responsive pleading is required, 21 days after service of a responsive pleading or 21 days after service of a motion under Rule 12 (b), (e) or (f), whichever is earlier.

DATED: September 1, 2022

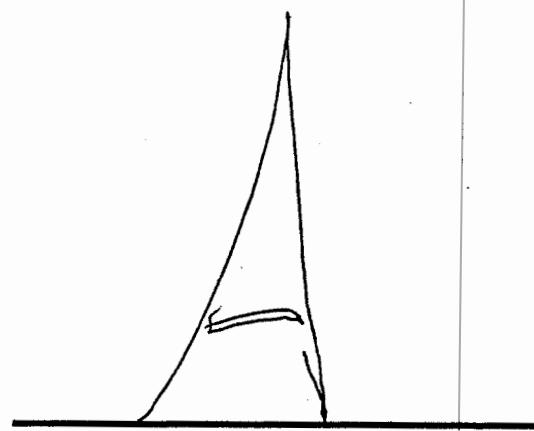
Respectfully Submitted,

Anthony Dewayne Lee Turner

Anthony Dewayne Lee Turner

IN Pro Per

**EXHIBIT**



# DECLARATION

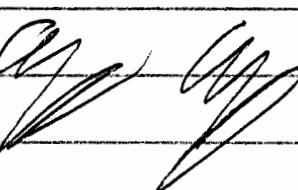
I, Anthony Flores Martinez, with my own eyes seen Anthony DeWayne Lee Turner's leg swollen for long periods of time. I do not know why the medical staff did not take care of his infection sooner. I had a infection in my leg On November 19, 2021 and the medical staff took care of me right away and placed me in the Community hospital. On November 27, 2021, I returned from the hospital.

I declare under penalty of perjury that the foregoing is true and correct and would testify to this in Court when ever asked to do so.

Executed at Mule Creek State Prison on November 29, 2021 in Ione California.

Date: 11-29-21

Print Name: Anthony F. Martinez E-76630

Signature 

## DECLARATION

On September 1, 2021. My roommate Thomas Moore and I was located in Building 18 in A-pod in cell-102. I, Anthony Dewayne Lee Turner spoke about my right leg being swollen and that I was allergic to the medication Amlodopine. It got infected from the long period of time it was swollen, and I showed Thomas Moore my leg which has open sores the prison medical health care did not treat even though the Clinic here has it register that they are providing services.

I, Thomas Moore declare under penalty or perjury that the above is true to the knowledge I have and from what I've witnessed with my own eyes. Executed at Mule Creek State Prison on November 20, 2021 in Ione, California.

**DATE:** 11/20/21

**Print Name:** Thomas Moore E-98768

**Signature:** Thomas Moore

## Standard Cell Search

BLDG. # \_\_\_\_\_ CELL # \_\_\_\_\_ DATE \_\_\_\_\_ TIME \_\_\_\_\_

NAME \_\_\_\_\_ CDCR# \_\_\_\_\_ UPPER \_\_\_\_\_

NAME \_\_\_\_\_ CDCR# \_\_\_\_\_ LOWER \_\_\_\_\_

**This is to advise you that your cell/bed area has been searched. As a result of this search, any confiscated items are listed below.**

AUTHORIZED ITEM	STATE ISSUE QUANTITY*	UNAUTHORIZED QUANTITY
JEANS	3	
SHIRTS	3	
BOXER	4	
T-SHIRT	4	
SOCKS	6	
WORK SHOES (Boots)	1	
TOWELS	2	
SHEETS	2	
PILLOW CASE	1	
WATCH CAP	1	
CAMP JACKET OR BLUE DENIM JACKET	1	
LAUNDRY BAG	2	
BELT	1	
BELT BUCKLE	1	
BLANKETS	2	

MAINTENANCE INSPECTION					
	Okay	Needs Attention		Okay	Needs Attention
DOOR	<input type="checkbox"/>	<input type="checkbox"/>	LIGHTS	<input type="checkbox"/>	<input type="checkbox"/>
WINDOWS	<input type="checkbox"/>	<input type="checkbox"/>	SINK	<input type="checkbox"/>	<input type="checkbox"/>
VENTS	<input type="checkbox"/>	<input type="checkbox"/>	TOILET	<input type="checkbox"/>	<input type="checkbox"/>
MATTRESS	<input type="checkbox"/>	<input type="checkbox"/>			

\* Quantities per CCR 63030

Comments: \_\_\_\_\_

**CORRECTIONAL OFFICER'S PRINTED NAME**

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**CORRECTIONAL OFFICER'S SIGNATURE**

## DECLARATION

On March 20, 2021, I, Anthony Dewayne Lee Turner became friends with Reggie Fowler at Mule Creek State Prison.

The two of us became good friends and did what we could do to help each other out. In our acquaintance I noticed he had no teeth and that his leg was very swollen. I asked him why he was not taking care of himself? Mr. Turner told me that he placed in multiple 7362 medical and dental slips and nothing has been done. He also told me that he placed in 1824 ADA accomodation complaints about not receiving medical health care services to provide for the neglect of how he was being treated. It took a year and a half before the doctor Michael Ulery stopped giving him a medication that Mr. Turner, was allergic. Then he told another doctor he was allergic to Amlodopine and she started him on it anyway. His leg was infected for a long period of time and the doctor still do not have his high blood pressure under control.

This is something that should not be happening to people.

I declare under penalty of perjury that these statements are true and correct to what I know and have seen with my own eyes the failure of this prison medical and dental health care services for a person with a disability. Executed at Mule Creek State Prison on November 21 2021 in Ione, California. In Building 18-A-pod-cell-102 2up.

Date: 11-21-21

Print Name: Reggie Fowler - AM3667

Signature: Reggie Fowler

## DECLARATION

I, Ronald R. Lewis is a witness to Anthony Dewayne Lee Turner not receiving medical services like other inmates at Mule Creek State Prison.

His leg was swollen and infected for about one year or more before the doctor sent him to the Community hospital. Yet, the Medical Health Care Services sent out Anthony Martinez in one day which denied Anthony Turner the same services. I feel he was discriminated against because of his mental functioning or because the medical staff knew that the Health Care provider messed up and did not do anything about Mr. Turner's medical issues. He has a open wound on his right leg and the medical Health Care do not even change out his bandage on a everyday basis. It's leaking and draining. The Doctor even re-issued him the medication he was allergic.

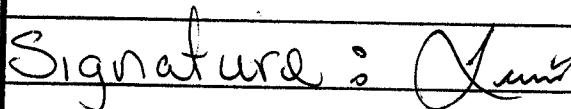
Date of December 23, 2021. I declare under penalty of perjury that the foregoing is true and correct to the

best of my knowledge and would testify  
in Court whenever asked to do so.

Executed at Mule Creek State Prison  
on December 23, 2021 in Ione, California.

Date: 12/23/21

Print Name: Lewis / C09942

Signature:  "

## UNITED STATES DISTRICT COURT

Eastern District Court of California

Keith Holland, Clerk

Jenna Nelson, Chief Deputy

## CLERK'S NOTICE

 REPLY TO:Divisional Office  
2500 Tulare St. #1-500  
Fresno, California 93721 REPLY TO:Office of the Clerk  
501 I Street #4-200  
Sacramento, CA 95814TO: Anthony Dewayne Lee Turner BJ-9612  
MULE CREEK STATE PRISON (409089)PO BOX 409089  
IONE, CA 95640Case Number: 

RE: Pleadings and/or Correspondence received on :

**CASE NUMBER:** The Eastern District case number could not be identified for the attached filing. You must write your case number on all documents submitted to the court.

**FILING FEE:** The filing fee of \$402.00 was not received (\$5.00 for habeas petitions), nor was an application to proceed In Forma Pauperis. Enclosed is an Application to Proceed In Forma Pauperis along with your original documents. Please resubmit your documents with the completed application or filing fee.

**COPYWORK:** The Clerk's Office will provide copies of documents and of the docket sheet at \$0.50 per page. Checks in the exact amount are made payable to "Clerk, USDC." Please Note: In Forma Pauperis status does not include the cost of copies. Copies of documents in cases may also be obtained by printing from the public terminals at the Clerk's Office or by contacting Cal Legal Support Group at: 3104 "O" Street, Suite 291, Sacramento, CA 95816, phone 916-822-2030, fax 916-400-4948.

**NAME SEARCHES:** The Office of the Clerk requires a \$31.00 charge, per name, to perform a records/name search. This fee must be paid in advance by check or money order to "Clerk, USDC." The search covers 1976 to present and includes civil, criminal, miscellaneous, and magistrate cases.

**CONFORMED COPIES:** The Court requires the original plus one copy of most pleadings. See Local Rule 133 (d) (2). If you wish to have a conformed copy returned to you, you must file an original plus two copies and provide the court with a self-addressed stamped envelope with the correct postage.

**CASE STATUS INQUIRIES:** The Court will notify you as soon as any action is taken in your case. Due to the large number of civil actions pending before the court, THE CLERK IS UNABLE TO RESPOND IN WRITING TO INDIVIDUAL INQUIRIES REGARDING THE STATUS OF YOUR CASE. As long as you keep the court apprised of your current address, you will receive all court decisions which might affect the status of your case.

**DISCOVERY DOCUMENTS:** Pursuant to Local Rule 250.2 (c), Interrogatories, responses and proofs of service shall not be filed with the clerk of court until there is a proceeding in which the interrogatories, production of documents or requests for admission are AT ISSUE.

**LOCAL RULES:** The Eastern District of California Local Rules are available on the court website at [www.caed.uscourts.gov](http://www.caed.uscourts.gov).

**LEGAL ADVICE:** The court can not give legal advice.

**EVIDENCE SUBMITTED:** The court cannot serve as a repository for the parties' evidence. The parties may not file evidence with the court until the course of litigation brings the evidence into question.

**CHECKS SUBMITTED TO THE COURT:** We are returning your check or money order for the following reason:

- We have no record of your case. Please return the funds with the appropriate case number, new complaint or petition.
- Your check or money order is not complete. Please return the check made payable to "Clerk, USDC" and the appropriate and exact amount for the item requested.
- The Clerk's office is not able to accept post-dated or altered checks. Please return payment made with an appropriately dated and/or unaltered check or money order.

**REQUESTED FORMS:** Your requested forms are enclosed.

**DOCUMENTS NOT SUBMITTED IN ENGLISH:** All documents submitted for filing must be written in English. Documents submitted in a language other than English cannot be translated.

**E-FILING :** Pursuant to Standing Order of the Chief District Judge entitled "In Re: Procedural Rules for Electronic Submission of Prisoner Litigation filed by Plaintiffs Incarcerated at [Selected Institutions]", the document(s) can not be filed because your institution participates in the e-filing program with the court. Per the Standing Order, the document(s) is (are) returned unfiled and must be filed under E-Filing procedure with the Litigation Coordinator.

**OTHER:**

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Thank you for your future attention to this matter.

AJB

12/28/21

Deputy Clerk

Date

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
501 I STREET, SUITE 15-220  
SACRAMENTO, CA 95814

Chambers of  
**KIMBERLY J. MUELLER**  
Chief United States District Judge

(916) 930-4260

**Magistrate Judge Consent in Civil Cases: Know Your Rights!**

Delay, congestion, uncertainty, and expense are concerns often expressed by civil litigants. These concerns have reached a crisis level in the Eastern District of California.

Despite the population of our District nearly doubling since 1979 and a corresponding tremendous increase in case filings, for the past 40 years our court has only 6 authorized District Judgeship positions. The U.S. Judicial Conference, the policy-making arm of the federal courts, has recommended for decades that Congress authorize between 5 and 11 new judgeships for this court. While the court is doing what it can to ensure Congress is fully informed regarding our current proposed allocation of 5 new judgeships, we cannot at this point say there is a realistic hope of new District Judgeships in the foreseeable future.

To make matters worse, given recent events, only 4 of our 6 authorized judgeships are filled by active District Judges as of February 2020. The Sacramento Division has experienced a net loss of one District Judge's services, with Senior District Judge Garland E. Burrell's taking inactive senior status and District Judge Morrison C. England's taking active senior status and reducing his combined civil and criminal caseload by half. Our Fresno Division is even harder hit, with former Chief District Judge Lawrence J. O'Neill's taking inactive senior status at the end of January 2020, leaving the Fresno District Court with only one active Article III judge to handle all criminal cases and a heavy share of civil cases, and one senior Article III judge who assists the court by taking a half civil caseload. The Eastern District has been significantly congested for many years, consistently carrying average weighted caseloads equal or close to twice the national average for federal trial courts. Given our current more dire circumstances, civil litigants are having to vie for less and less District Judge time and attention. Civil litigants therefore may wish to consider consenting to Magistrate Judge jurisdiction, given that the court has a full complement of experienced Magistrate Judges available to preside to the full extent allowed by law.

The Magistrate Judge consent process can help bring about the "just, speedy, and inexpensive determination" of federal cases. Fed. R. Civ. P. 1. Although their title has changed periodically, Magistrate Judges, as they currently are known, have had a role in the federal courts since passage of the Judiciary Act of 1789. Over time, Congress has expanded and enhanced the position in the interests of maximizing judicial efficiency. Specifically, Magistrate Judges are authorized "to conduct any or all proceedings in a jury or non-jury civil matter and order the entry of judgment in the case" with the consent of the parties. 28 U.S.C. § 636(c). Consent can maximize access to the courts and ease court congestion through effective use of judicial resources. It can provide numerous benefits to litigants including the prospect of an early and firm trial date, when District Judges may not be available to try a civil case given the need to prioritize felony criminal cases.

In civil cases, the assigned Magistrate Judge already is responsible for resolving discovery disputes, deciding other non-dispositive motions and in some instances handling pre-trial proceedings; as a result that judge may be intimately familiar with the case history. Consenting in any civil case allows the Magistrate Judge to decide dispositive motions and preside over trial, and so can avoid the

uncertainty parties may face while waiting for the District Judge to identify time on his or her calendar for trial. Just as with a judgment issued by a District Judge, a judgment issued by a Magistrate Judge to whom the parties in a civil case have consented is appealable directly to the Ninth Circuit Court of Appeals.

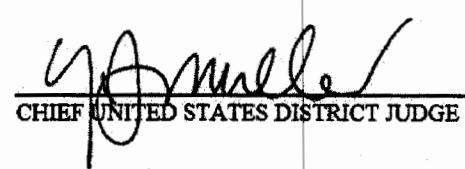
As their professional biographies posted on our court's website show, our Magistrate Judges are well-qualified to preside over the cases assigned them. They are experienced, high-caliber judges with diverse experiences in civil and criminal litigation who have been selected on the merits, taking into account their education, experience, knowledge of the court system, personal attributes and other criteria. Our Magistrate Judges are well-qualified to preside over the civil cases brought in our court.

To consent to magistrate judge jurisdiction, a party simply signs and files a consent form. The form is available on the court's website, at this link:

<http://www.caed.uscourts.gov/caednew/index.cfm/forms/civil/>.

Parties may consent or withhold consent without any adverse consequences. Once all parties to a case consent, then the assigned District Judge is notified and considers whether to approve the consent. Once the District Judge accepts, then the Magistrate Judge determines whether to accept consent jurisdiction, taking the opportunity to consider any conflicts or bases for recusal.

All litigants before the federal courts deserve justice delivered in a fair, prompt, and efficient manner. Our Magistrate Judges play a critical role in providing essential access to justice, particularly in our overburdened court. Consenting to Magistrate Judge jurisdiction in civil cases may represent one of the best ways to secure "just, speedy, and inexpensive determination" of your case, which is why we want to be sure you are fully aware of your right and ability to consent, and the means of doing so.



CHIEF UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

**ANTHONY DEWAYNE LEE TURNER,**

Case No. **2:22-CV-00002-KJN**

Plaintiff(s)/Petitioner(s),

vs.

**CONSENT / DECLINE OF U.S.  
MAGISTRATE JUDGE JURISDICTION**

**MICHAEL ULLERY, ET AL.,**

Defendant(s)/Respondent(s).

This case was randomly assigned to a Magistrate Judge. A Magistrate Judge may perform the duties assigned pursuant to 28 U.S.C. § 636(c) and Eastern District Local Rule 302. However, a Magistrate Judge may not preside over the trial in this case or make dispositive rulings without all parties' written consent. 28 U.S.C. § 636(c). If the parties do consent, a Magistrate Judge may conduct all proceedings and enter judgment in the case subject to direct appellate review by the Ninth Circuit Court of Appeals. If a party declines to consent, a Magistrate Judge shall continue to perform all duties as required by Eastern District Local Rule 302.

Therefore, within 30 days, the parties shall complete and return this form to the court. However, the parties are advised that they are free to withhold consent without adverse substantive consequences.

DATED: January 4, 2022

/s/ – Kendall J. Newman

United States Magistrate Judge

**IMPORTANT:** You must check and sign only one section of this form and return it to the Clerk's Office within 30 days.



**CONSENT TO JURISDICTION OF A UNITED STATES MAGISTRATE JUDGE**

The undersigned hereby voluntarily consents to have a United States Magistrate Judge conduct all further proceedings in this case.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Plaintiff / Petitioner  Defendant / Respondent



**DECLINE OF JURISDICTION OF A UNITED STATES MAGISTRATE JUDGE AND  
REQUEST FOR REASSIGNMENT TO UNITED STATES DISTRICT JUDGE**

The undersigned declines to consent to a United States Magistrate Judge and requests random assignment to a United States District Judge.

Date: 01/07/22

Signature: Anthony Turner

Print Name: Anthony Turner

Plaintiff / Petitioner  Defendant / Respondent

## UNITED STATES DISTRICT COURT

## EASTERN DISTRICT OF CALIFORNIA

Office of the Clerk

Keith Holland

Clerk of Court

501 "I" Street

Sacramento, CA 95814

Divisional Office

2500 Tulare Street

Fresno, CA 93721

January 4, 2022

Case Number: 2:22-CV-00002-KJN

Case Title: ANTHONY DEWAYNE LEE TURNER, vs. MICHAEL ULLERY, ET AL.

Dear Litigant,

You are hereby notified that the above case number has been assigned to your action. You are to include the complete case number on all documents sent to the court for filing in this case. Failure to do so results in delayed processing of your documents.

All matters in this action shall be sent to the following address until further notice:

Office of the Clerk  
 United States District Court  
 Eastern District of California  
 501 "I" Street, Suite 4-200  
 Sacramento, CA 95814

For timely processing of your pleadings or correspondence, please comply with our Local Rules of Court, in particular:

**Local Rule 133** The court requires an original plus one copy of each document sent for filing. If you desire to receive a conformed copy for your records, you must send an original and two copies of your document and a pre-addressed postage-paid envelope for us to return your copy to you.

**Local Rule 135** Once the defendant(s) have served a responsive pleading, you are under an ongoing duty to serve them with copies of all documents you submit to the court. A proof of service shall be attached to the original of any document lodged or filed with the court, showing the date, manner and place of service. A sample proof of service is attached.

**Local Rule 130** Documents submitted to the court must be legible, on 8-1/2" x 11" paper, with writing on one (1) side of the page only. Each separate document must be stapled at the top left corner and pre-punched with two (2) holes centered 2-1/4" apart, 1/2" from the top edge of the page. Each page should be numbered consecutively at the bottom.

**Local Rule 132** Every document submitted to the court must include your name, address and prisoner identification number in the upper left hand corner of the first page. The caption on the first page must include the title of this court, the title of the action, the case number assigned to this action (including all initials and letters that follow the number), and the title of your document. If you are pursuing more than one action in this court, you must submit a separate original document and the appropriate number of copies for each action in which you want the document filed.

**Local Rule 142** A request for extension of time must state the reason an extension is needed. A request for extension of time should be filed before the deadline in question.

**Local Rules 250.1, 250.2, 250.3 and 250.4** Discovery requests or responses should not be submitted to the court unless they are relevant and necessary to support or oppose a motion at issue before the court.

**Local Rule 182** Each party appearing in propria persona is under a continuing duty to notify the Clerk and all other parties of any change of address.

**Other Provisions:**

**Request for Case Status** The court will notify you as soon as any action is taken in your case. Due to the large number of civil actions pending before the court, THE CLERK IS UNABLE TO RESPOND IN WRITING TO INDIVIDUAL INQUIRES REGARDING THE STATUS OF YOUR CASE. As long as you keep the court apprised of your current address, you will receive all court decisions which might affect the status of your case.

**Copy Work** The Clerk's Office does not provide copies of documents to parties. Copies of documents may be obtained from Cal Legal Support Group by writing to them at: 3104 "O" Street, Suite 291, Sacramento, CA 95816, or by phoning 916-441-4396 or by faxing 916-400-4948. The court will provide copies of docket sheets at \$0.50 per page.

**Note: In Forma Pauperis status does not include the cost of copies.**

Keith Holland  
Clerk of Court  
United States District Court

by: /s/ E. Rodriguez  
Deputy Clerk

The following is a sample Proof of Service. Pursuant to Rule 5 of the F. R. Civ. P. and Local Rule 135, each document filed after the court orders service in your case shall be served on opposing counsel and a proof of service attached to your document filed with the court.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

(Case Title)

Plaintiff or Petitioner

v.

Case Number: 2:99-CV-99999 ABC DFG  
(example case no.)

Defendant or Respondent

**SAMPLE PROOF OF SERVICE**

I hereby certify that on (Date), I served a copy of the attached

*(Title of Document Served and Filed)*

by placing a copy in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said

envelope in the United States Mail at (Location of Mailing):

**(List Name and Address of Each Defendant or Attorney Served)**

I declare under penalty of perjury that the foregoing is true and correct.

(Name of Person Completing Service)

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
(SACRAMENTO DIVISION)

January 4, 2022

**NOTICE OF CASE FILING UNDER E-FILING PROGRAM**

**Case Number:** 2:22-cv-00002-KJN

**Case Title:** ANTHONY DEWAYNE LEE TURNER vs. MICHAEL ULLERY

Your civil complaint submitted under the E-Filing program was filed on 12/23/2021. You are hereby notified that the above-referenced case number and name has been assigned to your action. You are to include it on all future filings in this court. Failure to do so will result in delayed processing of your documents. After this initial filing, no other documents can be filed electronically, but must be sent to the following address for filing:

Office of the Clerk  
United States District Court Eastern District of California  
501 I Street #4-200  
Sacramento, CA 95814

Included with this Notice is the First Informational Order in Civil Rights Case signed by United States Magistrate Judge Kendall J. Newman and "Consent to Proceed Before a United States Magistrate Judge" form. A filed stamped copy of your civil complaint is not being provided to you because you filed electronically and your original complaint was returned to you after being scanned and emailed to the Clerk of Court.

Keith Holland  
Clerk of Court, United States District Court  
Eastern District of California

by: E. Rodriguez  
Deputy Clerk

State of California  
FEE WAIVER REQUEST  
DGS ORIM 005 (Rev. 01/2020)

Department of General Services  
Office of Risk and Insurance Management

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Department of General Services Privacy Notice on Information Collection

This notice is provided pursuant to the Information Practices Act of 1977, California Civil Code Sections 1798.17 & 1798.24 and the Federal Privacy Act (Public Law 93-579).

The Department of General Services (DGS), Office of Risk and Insurance Management (ORIM), is requesting the information specified on this form pursuant to Government Code section 905.2 (c)(2).

The principal purpose for requesting this data is to determine eligibility to waive the Government Claims Program claim filing fee. The information provided will/may be disclosed to a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected and the use or transfer is accounted for in accordance with California Civil Code Section 1798.25.

Individuals should not provide personal information that is not requested.

The submission of all information requested is mandatory unless otherwise noted. If you fail to provide the information requested to DGS, or if the information provided is deemed incomplete or unreadable, this may result in denial of filing fee waiver request.

**Department Privacy Policy**

The information collected by DGS is subject to the limitations in the Information Practices Act of 1977 and state policy (see State Administrative Manual 5310-5310.7). For more information on how we care for your personal information, please read the DGS Privacy Policy.

**Access to Your Information**

ORIM is responsible for maintaining collected records and retaining them for 5 years. You have a right to access records containing personal information maintained by the state entity. To request access, contact:

**DGS ORIM**  
**Public Records Officer**  
**707 3<sup>rd</sup> St., West Sacramento,**  
**CA 95605 (916) 376-S300**

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